

UNITED STATES DISTRICT COURT

for the
District of South Dakota

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (*identify the person or describe the property to be searched and give its location*):

SEE "ATTACHMENT A", which is attached to and incorporated in this Application and Affidavit

located in the District of South Dakota, there is now concealed (*identify the person or describe the property to be seized*):

SEE "ATTACHMENT B", which is attached to and incorporated in this Application and Affidavit

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
18 U.S.C. § 1201

Offense Description
Kidnapping

The application is based on these facts:

Continued on the attached affidavit, which is incorporated by reference.

Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Your applicant requests that no notice be given prior to the execution of the search warrant, i.e., "no knock", the basis of which is set forth in the attached affidavit.

Your applicant requests authorization to serve the search warrant any time day or night pursuant to Fed. R. Crim. P. 41(e)(2)(A)(ii), the basis of which is set forth in the attached affidavit.

the attached affidavit.



Applicant's signature

Stephen Beery, Special Agent FBI
Printed name and title

Sworn to before me and: signed in my presence.

submitted, attested to, and acknowledged by reliable electronic means.

Date: 2/12/21

Demet Uluçay

City and state: Rapid City, SD

Daneta Wollmann, U.S. Magistrate

Wohlbach, U.S. Mag
Printed name and title

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DISTRICT

IN THE MATTER OF THE SEARCH OF: Case No. 5:21-mj-40

USA v. 21-36-05

**AFFIDAVIT IN SUPPORT OF
SEARCH WARRANT
APPLICATION**

REDACTED

State of South Dakota)
) ss
County of Pennington)

I, Stephen Beery, being duly sworn, states as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), assigned to the Rapid City, South Dakota office. I have been employed as a Special Agent for the FBI since May 2016. As part of my duties, I investigate violations of federal law, including kidnappings and other violent crime. I have gained expertise in conducting investigations through training programs, classwork, and investigative work related to conducting these types of investigations. I have furthermore participated in the execution of numerous federal and state search warrants, which involved kidnapping.

2. This affidavit is submitted in support of an application pursuant to Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search online accounts **davidemckayjc@gmail.com, treasurethorn@gmail.com, and**
████████2222@gmail.com [TARGET ACCOUNTS] more particularly described in Attachment A of this affidavit, and owned and operated by Google,

Inc. and associated with Google, an Internet email service which allows users to open accounts, send communications and emails, upload and share files, and utilize a mobile application. The evidence to be searched for and seized is more particularly described in Attachment B of this affidavit.

3. As set forth in greater detail below, there is probable cause to believe that evidence, fruits, and instrumentalities of violations of Title 18, United States Code, Section 1201, related to kidnapping, as well as confirmation of the victim's location, are currently present within the TARGET ACCOUNTS.

4. The information contained in this affidavit is based on my personal knowledge, my review of documents and records, and on information provided to me by other members of the law enforcement community. Because this affidavit is being submitted for the limited purpose of establishing probable cause to secure a search warrant, I have not included each and every fact known to me concerning the investigation. Instead, I have set forth only the facts necessary to establish probable cause to believe that there is evidence (further described in Attachment B of this affidavit) currently concealed within the TARGET ACCOUNTS.

PROBABLE CAUSE

5. On January 8, 2021, your affiant was made aware that 18-year-old female "HSK", date of birth [REDACTED] 2002, had not been seen since the previous day at her home in Piedmont, SD. Upon interviewing the victim's mother "Linda", your affiant learned that Linda looked on the family computer and saw a screenshot of a Walmart debit card that was apparently used on the website

aa.com. Linda then went to the American Airlines kiosk at Rapid City Regional Airport and spoke with a gate agent who indicated he had seen a girl matching her description and photo, and that she likely boarded a flight to Phoenix, Arizona.

6. Your affiant further learned that Linda had found indications on the computer that HSK began using an encrypted email service, which HSK would not know how to do without guidance. Linda also found references to "Jesus Christians," a religious organization. Linda emailed the organization at info@jesuschristians.com and received a response from the organization's leader, David McKay (McKay), who indicated she had chosen to join the organization and was with them now. McKay indicated he would not tell HSK's family her location. The email address used by McKay was **davidmckayjc@gmail.com**. McKay indicated that HSK was being included (blind carbon copy aka BCC) on his emails to Linda.

7. On or around January 10, 2021, Linda received several text messages from 541-249-7438 which stated the following: "I told you I have Heather but you decided not to say anything about it or take it seriously. Now she is sick and wants to talk to her mom over the phone. This is fucking important. I am not releasing her until I have a ransom of 7,000\$. She is sick Right now and wants to talk to you. I am sure you know what to do if you don't want me to make today horrible for you my killing you Daughter.>"; "I demand a ransom payment of \$7,000 before I release her back to you alive. You are warned not to tell anyone or the Cops about this or SHE DIES. Do not act smart."

8. HSK had approximately \$4,200 in a bank account which was emptied except for \$200 on January 6, 2021.

9. Upon learning that HSK was gone, Linda transferred HSK's phone number from HSK's phone to a new phone that Linda purchased at Walmart, in an effort to access her accounts.

10. On January 15, 2021, your affiant collected several digital devices that were left behind in HSK's bedroom, including a desktop computer and two external hard drives. The devices were forensically imaged and analysed. On a backup external hard drive your affiant observed several hundred logins to email account **seekpeace55@tutanota.com**. Tutanota is an end-to-end encrypted email provider based in Germany. Your affiant additionally observed logins to Instagram account **@seekpeace55** and Yahoo email account **seekpeace55@yahoo.com**.

11. The only email account Linda was aware of that HSK used was her longtime Gmail account **treasurethorn@gmail.com**.

12. Your affiant obtained a flight itinerary which indicated HSK flew on United Airlines flight AA5884 from Rapid City to Dallas – Fort Worth, and then AA3030 from Dallas – Fort Worth to Yuma, AZ on January 7, 2021.

13. Your affiant learned from Linda that she had created a Facebook post detailing how her daughter had gone missing. At some point after the post was active, McKay began commenting on the post. Your affiant observed the comments coming from Facebook user **David.mckay.127**.

14. Your affiant also identified two Facebook accounts with the display name of HSK. Linda confirmed that the first was the account that HSK had historically used, ID: **100034763462807**. The second account had been created on January 8, 2021 and the profile picture showed a picture of HSK reading a book. The account ID is **100061640919839**.

15. The latter Facebook account posted a comment to Linda's post stating "I will keep this brief but I just wanted to apologize for all the worry I have caused. I have been hesitant to discuss some of my beliefs in person. But I am planning on staying in touch and hope to work through our differences via email." Linda stated the writing style did not match HSK's and she did not think HSK had actually written the comment.

16. On January 16, 2021 a video was posted to Youtube.com titled "A Message to My Family". The video is 35 seconds long and depicts HSK sitting on a bench playing with a dog while someone holds a camera. HSK tells the camera that she is "OK, alive, and everything's good." HSK also states that it was her writing in the posts.

17. On January 19, 2021, a family member of HSK received an email from [REDACTED] **2222@yahoo.com** stating "I hope we can write more to each other and stay in touch. And we can move on from all that has been going on lately."

18. On January 27, 2021, Linda received an email from **forsakeallforjesus@gmail.com**. The email states it is from HSK, and is addressed to **davidmckayjc@gmail.com**, with Linda carbon copied (CC). The

content of the email is directed at Linda and among other statements contains the following: "But as soon as you want to stop arguing, then the faster we can work on having a better relationship and start communicating in a more kind and respectable way. But until that happens I will just continue to mostly talk to Hunter and anyone else who wants to be reasonable."

19. As of January 28, 2021, HSK's location has not been confirmed, due to the changing of online accounts and concealment of HSK's location by McKay.

20. Based on your affiant's experience, grooming or indoctrination of a victim can occur over time and through different channels, especially via social media and online platforms. Evidence and artifacts of communications between the victim and others can aid in determining the extent and nature of a kidnapping, especially in cases where a victim appears to have gone willingly with an individual or individuals. Persistent changing of email addresses, new phones and phone numbers, and sudden use of encryption have been observed as methods to delay and subvert law enforcement in

21. Based upon the forgoing, I respectfully submit that there is probable cause to believe that evidence, fruits and instrumentalities of violations of Title 18, United States Code, Section 1201 as specifically described in Attachment B to this application, are presently located on the TARGET ACCOUNTS. The undersigned therefore respectfully requests that the attached warrant be issued authorizing a search and seizure for the items listed in Attachment B within the TARGET ACCOUNTS, more particularly described in Attachment A to this application. Due to the ongoing nature of this investigation, and the possibility

of seriously jeopardizing the effectiveness of the investigation if information were made public, I request that the search and seizure warrant and this application be sealed for a period of 90 days following the execution of the warrant.

LIMIT ON SCOPE OF SEARCH

22. I submit that if during the search, agents find evidence of crimes not set forth in this affidavit, another agent or I will seek a separate warrant.

REQUEST FOR SEALING OF MATTER

23. I request that the Court order sealing this case until further order of the Court. The documents filed in the case discuss an ongoing criminal investigation that is neither public nor known to all the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may give targets an opportunity to flee, destroy or tamper with evidence, change patterns of behavior, notify confederates, or otherwise seriously jeopardize the investigation.

REQUEST/JUSTIFICATION FOR ORDER OF NONDISCLOSURE

24. The United States respectfully applies for an order of nondisclosure to Google, Inc. under 18 U.S.C. § 2705(b) regarding the following accounts:

davidemckayjc@gmail.com, treasurethorn@gmail.com, and

2703(b)(1)(A) and 2703(c)(1)(A). Based on § 2703(c)(3), the United States is not required to provide notice to the subscriber. Under § 2705(b), the United States may apply to the court for an order commanding Google, Inc. not to notify the subscriber of the existence of the search warrant. The court may decide what length of time shall apply to the order of nondisclosure if the court determines the notification to the subscriber could result in one of the five factors listed in the statute, which includes destruction of or tampering with evidence. 18 U.S.C. § 2705(b)(3). The basis for the request is that such disclosure could cause any person with access to the accounts, or any related account or account information, to tamper with or modify the content or account information and thereby destroy or tamper with evidence and otherwise seriously jeopardize the investigation. Especially due to the ease of access to Google, Inc., persons can modify its content with internet access and sufficient account information. As such, the United States respectfully requests this Court enter an order commanding Google, Inc. not to notify the user of the existence of this warrant.

Dated: 2/12/21



Special Agent Stephen Beery
Federal Bureau of Investigation

Sworn to before me and:

signed in my presence.
 submitted, attested to, and acknowledged by reliable electronic means.

this 12 day of February, 2021.



Daneta Wollmann
United States Magistrate Judge

ATTACHMENT A

This warrant applies to the contents of and information associated with the following Gmail email accounts, under accounts known to be stored at the premises controlled by Google, Inc., a company that accepts service of legal process at 1600 Amphitheatre Parkway, Mountain View, California 94043:

davidmckayjc@gmail.com
treasurethorn@gmail.com
[REDACTED]2222@gmail.com
forsakeallforjesus@gmail.com

ATTACHMENT B

**Particular Things to be Seized and Procedures
to Facilitate Execution of the Warrant**

**I. Information to be disclosed by Google, Inc. (the "Provider") to
facilitate execution of the warrant:**

To the extent that the information described in Attachment A is within the possession, custody, or control of Google Inc., including any emails, records, files, logs, or information that have been deleted but are still available to Google Inc., or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Google Inc. is required to disclose the following information to the government for each account or identifier listed in Attachment A, including any information contained in the email accounts which is helpful to determine the true identity of each account's user or owner.

a. The contents of all e-mails associated with each account, from the time of each account's creation to the present, including stored or preserved copies of emails sent to and from each account, email attachments, draft emails, deleted emails, the source and destination addresses associated with each email, the date and time at which each email was sent, and the size and length of each e-mail;

b. The contents of all Instant Messages (IM) associated with each account, from the time of the account's creation to the present, including stored or preserved copies of IMs sent to and from the account, IM attachments, draft IMs, the source and destination addresses associated with each IM, the date and time at which each IM was sent, and the size and length of each IM;

- c. All records or other information regarding the identification of each account, to include full name, physical address, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the IP addresses used to register the account, all log-in IP addresses associated with session times and dates, account status, alternative e-mail addresses provided during registration, methods of connecting, log files, and means and source of payment (including any credit or bank account number);
- d. The types of services utilized;
- e. All records or other information stored by an individual using the accounts, including address books, contact and buddy lists, calendar data, pictures, and files;
- f. All records pertaining to communications between Google Inc. and any person regarding the accounts, including contacts with support services and records of actions taken.

II. Information to be seized by the government

- 1. All information described above in Section I that was created or saved after the creation of the account that is the subject of this warrant and that constitutes contraband or fruits, evidence or instrumentalities of violations of 18 U.S.C. §§ 1201 – Kidnapping, including, for the account or identifiers listed on Attachment A, information pertaining to the following matters:

3. Evidence of who used, owned, or controlled the account or identifier listed on Attachment A, including evidence of their whereabouts;
4. Evidence of the times the user utilized the account or identifiers listed on Attachment A;
5. Passwords and encryption keys, and other access information that may be necessary to access the accounts or identifier listed on Attachment A and other associated accounts.

III. Information Regarding Search Warrant Compliance by Google:

Google shall disclose responsive data, if any, by sending to:

Special Agent Stephen Beery
3600 Jet Drive, Rapid City, SD 57703
605-872-4114
sbeery@fbi.gov

Google shall use the United States Postal Service or another courier service to disclose the responsive data, notwithstanding 18 U.S.C. § 2252A or similar statute or code. In the alternative, Google may make the responsive data available to Special Agent Beery by use of its law enforcement portal.

**CERTIFICATE OF AUTHENTICITY OF DOMESTIC
BUSINESS RECORDS PURSUANT TO FEDERAL
RULE OF EVIDENCE 902(11) & (13)**

I, _____, attest, under penalties of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct. I am employed by Google Inc., and my official title is _____. I am a custodian of records for Google Inc. I state that each of the records attached hereto is the original record or a true duplicate of the original record in the custody of Google Inc., and that I am the custodian of the attached records consisting of _____ (pages/CDs/kilobytes). I further state that:

- a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;
- b. such records were kept in the ordinary course of a regularly conducted business activity of Google Inc.; and
- c. such records were made by Google Inc. as a regular practice.

I further state that this certification is intended to satisfy Rules 902(11) and (13) of the Federal Rules of Evidence.

Date

Signature

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of:

USA vs. 21-36-05

Case Number: 5:21-mj-40

))))))

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the District of South Dakota (*identify the person or describe the property to be searched and give its location*):

See **ATTACHMENT A**, attached hereto and incorporated by reference

I find that the affidavit, or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(identify the person or describe the property to be seized)*:

Evidence of a crime in violation of 18 U.S.C. § 1201, as described in **ATTACHMENT B**, attached hereto and incorporated by reference.

I find that the affidavit, or any recorded testimony, establishes probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before **2/26/21** *(not to exceed 14 days)*

in the daytime 6:00 a.m. to 10 p.m. at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Daneta Wollmann.

(United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (*check the appropriate box*)

for days (not to exceed 30). until, the facts justifying, the later specific date of _____.

I find that good cause has been established to authorize the officer executing this warrant to not provide notice prior to the execution of the search warrant, i.e., "no knock".

Date and time issued: 2/12/21 at 1:15pm

Donald Ulmer

Judge's signature

City and state: Rapid City, SD

Daneta Wollmann, U.S. Magistrate

Printed name and title

cc: AUSA Kelderman via email
kle

Return		
Case No.: 5:21-mj-40	Date and time warrant executed:	Copy of warrant and inventory left with:
Inventory made in the presence of :		
Inventory of the property taken and name of any person(s) seized:		
Certification		
I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.		
Date: _____		
<i>Executing officer's signature</i>		
<i>Printed name and title</i>		